

## Episode 57

### Honorarium Received From Banks

At this point, it is worth mentioning that when I first accepted to work as a member in the Shariah Board of Faysal Islamic Bank, the only motivation for accepting the role was the desire that with respect to the declaration of war against interest that Allah Most High has made in Surah Al-Baqarah, this worthless one should receive the good fortune of getting a share in the effort for averting it. At that time, I did not have any thoughts whatsoever even in the fringes of my mind that I would receive an honorarium in return for this service. But what happened is that Faysal Bank gave me a one-year honorarium, on its own accord, in the form of a cheque of three thousand dollars, which was equivalent to about a hundred and fifty thousand Pakistani Rupees at that time. I was initially hesitant to accept it, but the Holy Prophet ﷺ had instructed Hadhrat Umar and Hadhrat Hakeem bin Hizaam (may Allah be pleased with them): If you receive this wealth without asking for it or *Ishrāf Al-Nafs* (greed), then take it (considering it to be a blessing of Allah). I thus accepted it based on this. However, for this bank as well as whichever bank I got the opportunity to work in in the future, with respect to accepting honorariums, I kept the following principles in mind:

1. I never asked for any honorarium when accepting to work for any institute, nor did I ever ask as to how much they would give, nor present any bill for my services. There were some banks whose internal regulations required for a bill to be presented by whoever the bank paid anything. Even for such banks, I refused to prepare and submit any bill. The bank said: "Based on our regulations, you cannot receive any payment without a bill". The combined honorarium over several years from that bank, as far as I remember, was ten thousand dollars. I said: "If this is against your regulations, then do not give it to me. Neither have I asked you for it before nor am I asking for it now. I will not accept a single dollar if I have to prepare a bill for it, because a bill is prepared by someone who is doing a commercial transaction, and this work of mine is not a business. I am doing it for my own self, and I do it voluntarily. If someone gives me something in return for my voluntary

services of their own accord, I do not refuse it. And if they do not give me anything at all, not only will I not mind it at all, rather I would continue working with the same motivation as before". Thus, for example the extremely demanding work of the *Majlis Shar'ī*, where discussions would last for weeks, and since the responsibility of Chairmanship was also on me, all the administrative load of the *Majlis* was on me, which included making sure no one would have complaints that they did not get a chance to express their views, and at the same time preventing out-of-topic discussions. And after all the discussions, I also had to present solutions by myself, which others usually concurred with. If someone still disagreed with something, it would be registered in the *Majlis's* minutes. In short, the work in this *Majlis* was much harder as well as patience-testing compared to the work in other Shariah Boards, but all this would be done on a voluntary basis, and I would not receive a single penny beyond the actual travel expenses. However, by the grace of Allah, we would continue the work by giving it higher priority than other works.

2. A second point I took care of is that though I have never considered myself an *'ālim* (scholar), rather I have always believed that it would be a pinnacle of honour for me if Allah Most High makes me a seeker of knowledge in the true sense, but the people with whom we have to interact with in banks deal with us considering us as scholars. We were thus indispensable for them but they were not indispensable for us. I thus wanted them to have the same honour and dignity, in their hearts as well as behaviour, for us as behoves a scholar, and that they should not treat us as employees of banks. Thus, if bank employees or legal advisors have to travel for a meeting or any other work, the normal practice is that they are given a daily allowance for their expenses. After landing at the airport, they would thus take a taxi by themselves, find a hotel by themselves and also pay for their food expenses from this same allowance. They sometimes also save some amount from this.

But I set a condition that I would not travel based on a daily allowance. Some senior representative of the institute must receive me at the airport, have a prior booking in a good hotel and take me there, and also arrange for my transportation to and from the meeting.

3. Anyway! While I would not take any financial honorarium from any Pakistani bank, with respect to whatever I received from banks in other countries with the above-mentioned conditions, I would use it in the same manner as I used during my membership in the Council of Islamic Ideology or Federal Shariat Court or the Shariah Bench of the Supreme Court, i.e. I did not include that income in my everyday expenses, rather I kept it separate, and continued my household expenses at the same standard as before. The reason for doing this was to avoid becoming dependent on those incomes in my everyday life, so that if I had to resign from those institutes for the sake of my own principles, my household expenses should not become an impediment. Thus, whenever the thought occurred in my heart to resign from a particular institute, Alhamdulillah I did not have any hesitation even for a single moment. As for those incomes which I had kept separately, I utilized some of them in some need of interest-free banking, such as in the expenses of a gathering of scholars, which is mentioned ahead. And some were used in acquiring certain properties, some of which give reasonable incomes as well, and now, by the grace of Allah, my publishing institute Maktabah Maariful Quran is also self-sufficient and my household expenses are met through it. As for the salary from Darul Uloom which I used to take in the beginning, I have forgone it since many years.

## **Code of Conduct for Islamic Banks**

While Shariah Standards were being prepared through the *Majlis Shar'ī*, initially their status was only as academic documents and no authority had made them as regulations for banks to follow (as happened later). In those days, new Islamic financial institutes were being established in Arab countries by the dozens, with new and fresh scholars working in their Shariah Boards, and due to lack of scholars, sometimes the same scholar would simultaneously work in the Shariah Boards of dozens of banks, due to which the required standard of Shariah-based supervision was declining. Furthermore, such contracts were coming up in banks in Arab countries which were contrary to the Shariah as well as the Standards themselves. Alhamdulillah the institutes in Pakistan were protected from such flaws, but they were starting to become common in Arab countries. I was quite concerned about this and wished to convene a gathering of scholars of the

Arab world in which I could get a common agreement from them regarding some code of conduct.

In order to get a common agreement on some code of conduct from those scholars who were supervising financial institutes in the Arab world, I needed an influential personality of the Arab world itself. For this, I found Shaykh Yusuf Qaradawi the most appropriate person because he possesses a high standing as a senior scholar in the Arab world, and his words are given much weight. I wished for this conference to be convened under his presidency, so that it could give actual results.

I did not wish for this gathering to be funded by any financial institute, rather the plan was to organize it at my own expense. Shaykh Qaradawi (may his shade be extended) is originally from Egypt but has been living in Doha (Qatar) since a long time, and I have received quite a long companionship and affection from him in various conferences. Despite differing with him on numerous issues, overall, his stance is towards the ascendancy of the Shariah and detestation for misguiding Western ideologies, and there is no second opinion on the vastness of his knowledge. I thought I should first meet him in person and apprise him of the situation and present my proposal. For this, I had to travel to Qatar. The Secretary-General of the organization that Shaykh Qaradawi has formed under the name of "*Ittiḥād 'Ulamā al-Muslimīn*" is my friend Shaykh Dr Ali Muhyi al-Din Qaradaghi. He also resides in Qatar, and he is also linked to Islamic banks there, and he shared my above-mentioned concern. I informed him of my plan. He arranged for a visa of Qatar for me, and I travelled to Qatar from Karachi on the 22<sup>nd</sup> of June 2007. I had a detailed meeting with Shaykh Qaradawi in which I informed him of my concern and proposed to organize a conference of relevant scholars in Makkah Mukarramah, with him presiding over it, in which a thorough discussion could take place on the present-day situation. A code of conduct could be defined in that meeting itself, so that the mistakes currently occurring would not be repeated in the future. Shaykh Yusuf Qaradawi expressed his complete concurrence with my idea and accepted the invitation to participate in this gathering.

There was an upcoming conference scheduled to take place in Makkah Mukarramah in which most of those scholars had been invited whom I wished to invite in the gathering. At the end of

that conference, I invited all the participants to the proposed gathering the next day, and also called Shaykh Yusuf Qaradawi and Shaykh Ali Qaradaghi to Makkah Mukarramah at my invitation. I had already prepared a detailed paper for the gathering, which I presented in this meeting. Shaykh Yusuf Qaradawi expressed his heartfelt concurrence with it and advised all attendants that while it is important to establish interest-free financial institutes, it is even more important to stay away from any practice of merely copying interest-based institutes, and to avoid any laxity whatsoever in adherence to the true teachings of Islam.

While I cannot say that everyone acted on every point stated in my paper, Alhamdulillah by Allah's grace and favour, certain flaws, which were the most concerning in my point of view, were corrected.

### ***Sukuk Al-Musharakah* and a Measure Related to it**

"Bonds" are quite important in the banking industry. If a government or financial institute needs capital for some project, it takes loans from people and gives them a certificate as a documentary proof of the loan, which is called a "bond". Since these loans are interest-based, if someone buys a bond, they are considered rightful to receive interest at a fixed rate. From Shariah point of view, the best alternative to this would be to receive the capital from people with a contract that makes the investors as shareholders in the profit and loss of the project for which the capital is being raised. In other words, the government or financial institute would contract a "*Shirkat*" or "*Mudarabah*" contract with them. Thereafter they would be given the real profit from the project, instead of interest, and in case of a loss, they would also share it.

In 2007, many banks issued financial papers apparently on this same basis, and called them "*Sukuk Al-Musharakah*". But many issuers of Sukuk added a promise that at the maturity of the Sukuk, they would buy them back from all investors at the original cost price. The practical effect of this promise was that the capital of all investors was safeguarded. In a way, one shareholder was taking a *ḍamān* (guarantee) of the *Ra's al-Māl* (capital) of all other shareholders. This is impermissible in Shariah, and the Standards have also declared this impermissible. However, since initially the Standards were not compulsory on the banks to follow, such *Sukuk Al-*

*Musharakah* were becoming very common in the market. I spoke out against this situation in many conferences, and finally, during one such conference, Reuters news agency wanted to interview me. While giving that interview, I found it an opportune opportunity and gave the statement that eighty percent of the Sukuks in the markets were not Shariah-compliant.

Though I had given that statement in my personal capacity, since I was the President of the *Majlis Shar'ī*, newspapers in the Middle East and Western world published it in bold headlines. As soon as this statement was published, pandemonium erupted in financial markets, and the Sukuk market, which was worth hundreds of millions of dollars, rather perhaps billions of dollars, began to collapse abruptly, and newspapers and magazines began publishing heaps upon heaps of articles and comments on this.

Around those times, one time I was travelling to Dubai when my travel companion, who was sitting beside me and was a stranger to me, was holding the 8 December 2009 edition of Financial Times. Its second page contained a large photo of me. He looked back and forth between the picture and me and finally asked: "Is this really you?" I took the magazine from him and saw that some staff of Financial Times had somehow taken a photo of me and published it on almost a quarter of a page, with an article on the effects of my statement on the Sukuk market underneath it. The author wanted to show how a single statement of a Pakistan Mulla shook the financial markets.

In the wake of this uproar, Sukuk-issuing organizations contacted me and the *Majlis Shar'ī*, and asked for their position to be heard. I thus invited all of them to a lower-level conference of the *Majlis Shar'ī* and listened to their stance. They said: "The buy-back promise at cost price does not equate to the Sukuk-issuers taking *ḍamān* (guarantee) of the entire *Ra's al-Māl* (capital) of the investors, because in case the project gets completely destroyed, all would share in this loss. Therefore, this buy-back promise cannot be equated with complete *ḍamān* (guarantee)". But this was a far-fetched idea which had no practical effect in the real world. The truth remained that through those Sukuks, they wanted to get the same features as bonds under the semblance of "*Shirkat*".

Anyway! After listening to their point of view amidst a large gathering of scholars and bankers, I convened a special meeting of the *Majlis Sharī* on this topic, and also wrote an article for this meeting, which was published under the title “*Al-Şukūk Wa Taṭbīqātuḥu Al-Muāşirah*”. In this meeting of the *Majlis Sharī*, some of those scholars were also present through whose permission those objectionable Sukuks were issued. They also presented the evidences for their position, but I cannot remain without commending their sincerity and truthfulness, for after listening to our evidences, not only did they take back their stances, rather openheartedly signed on the statement that the *Majlis* had prepared in support of my media statement. And later, they also supported it in full through media statements and interviews. After that, the issuance of such Sukuks ceased.

However, the Sukuks that were issued after that had some other flaws. It was thus felt that the Standard of Sukuk that the *Majlis Sharī* had previously prepared should be updated with some more details through which these new flaws could also be addressed. Nowadays, work is underway on this Standard. Presently, Central Banks have made Islamic banks legally bound to adhere to the Standards prepared by the *Majlis Sharī*. It is thus hoped that *Inshā Allah* these flaws would also be rectified.